

Drycleaning Environmental Response Trust (DERT) Fund Claim Kit

Hazardous Waste Program fact sheet

9/2006

What is the DERT Fund?

Missouri's Drycleaning Environmental Response Trust (DERT) Fund was established by Senate Bill 577 and authorized in RSMo 260.920. The DERT fund was established to provide monies for the investigation, assessment and remediation of chlorinated solvent releases from dry cleaning facilities. The DERT Fund is a state fund and is administered by the Hazardous Waste Management Commission.

When you should file a claim

- You had a leak or spill of a reportable quantity (100 pounds or more) of chlorinated dry cleaning solvent
- You have the soil or groundwater on your property tested, and learn that you have reportable levels of chlorinated dry cleaning solvent contamination
- You receive evidence from another person, alleging contamination from your dry cleaning system

Prompt notice is required in order to protect your interests. As soon as you are aware of a potential claim, even if you believe cleanup costs will not exceed the deductible, call the DERT Fund Administrator at (573) 526-8913 or write to:

DERT Fund Administrator
Missouri Department of Natural Resources
Hazardous Waste Program
Brownfields/Voluntary Cleanup Section
P.O. Box 176
Jefferson City, MO 65102

What Dry Cleaning Facilities are Eligible

All dry cleaning facilities, including coin operated dry cleaners, that use or have used in the past chlorinated dry cleaning solvents are eligible for the DERT Fund. Prisons, government entities, hotels, motels and industrial laundries are specifically exempt, and therefore not eligible for reimbursement. Governmental entities that own or are in possession and control of an abandoned facility otherwise eligible for coverage may apply to the DERT Fund as long as the governmental entity follows the procedures of 10 CSR 25-17.050 through 10 CSR 25-17.170. Abandoned facilities are also eligible for the DERT Fund.

Persons eligible for reimbursement from the DERT Fund

Owner or operator of an active dry cleaning facility or the owner or past operator of an in-active (abandoned) facility.



Steps for claimants:

- Demonstrate that the source of the release is from the claimant's active or abandoned dry cleaning facility.
- At the time of the discovery of the release, the claimant and the dry cleaning facility were in compliance with RSMo 260.900 through 260.960, 10 CSR 25-17.010 through 10 CSR 25-17.170, and any other applicable state and federal laws.
- The release was reported in a timely manner to the department's Environmental Services Program's Emergency Spill Line at (573) 634-2436.

Best Management Practices

While not required under the DERT Fund statute and regulations, best management practices are recommended practices and equipment for preventing and containing spills of dry cleaning solvents. You should check with your local and state Air Pollution Authorities and other Department of Natural Resources programs to see what regulations and best management practices are required of your facility.

- Manage all dry cleaning wastes and solvents in accordance with applicable local and state waste management laws and rules.
- Dry cleaning wastewater should be prohibited from discharge into a sanitary sewer, septic tank, floor surface, or groundwater.
- A containment dike or structure should be installed around each dry cleaning machine or equipment or any area in which dry cleaning solvents are utilized. This containment dike or structure should be of a material that will contain dry cleaning solvents and seams should be sealed to prevent leakage.
- Dry cleaning solvents should be delivered by means of a direct coupled delivery system.
- Volume of solvents on-site should be kept as low as practical at all times.

Eligible costs

The DERT Fund provides monies for the investigation, assessment and remediation of releases of chlorinated solvents from dry cleaning facilities. The owner or operator of an active and the owner of an abandoned dry cleaning facility shall be liable for the first \$25,000 of corrective action costs incurred because of a release from an active or abandoned dry cleaning facility.

Eligible expenses include:

- Investigation and assessment of a release of chlorinated solvent at a dry cleaning facility, including costs of off-site assessment and investigation of contamination caused by a dry cleaning facility.
- Necessary or appropriate emergency action.
- Remediation of releases of chlorinated dry cleaning solvents from dry cleaning facilities, including costs of remediation of off-site contamination caused by a dry cleaning facility.
- Operation and maintenance of corrective action.
- Monitoring of releases from dry cleaning facilities, including costs of monitoring of off-site contamination caused by a dry cleaning facility.
- Reasonable costs of restoring property as nearly as practicable to the condition that existed prior to activities associated with the cleanup activities.
- Removal and proper disposal of wastes generated during site assessment, investigation, and remedial activities at a dry cleaning facility.

- Payment of costs conducted or incurred by the department or by entities other than the department, but approved by the department for corrective action or for providing field and laboratory services.
- At any multi-source site, the department shall use the monies in the fund to pay for the proportionate share of the liability for corrective action costs which is attributable to a release from one or more eligible dry cleaning facilities and for that proportionate share of the liability only. At any multi-source site, the department is authorized to make a determination and issue an order establishing the relative liability of the fund for costs of corrective action, expressed as a percentage of the total cost of corrective action at a site, whether known or unknown.

What Costs are not Eligible Expenses of the DERT Fund?

Costs not associated with the assessment, investigation and remediation of releases of solvents from a dry cleaning facility are not eligible. Such costs include, but are not limited to:

- Costs of investigation to determine whether a release has occurred or existing contamination is present at an active or abandoned dry cleaning facility.
- Corrective action at sites not associated with a dry cleaning facility.
- Corrective action at sites, other than dry cleaning facilities, that are contaminated by dry cleaning solvents released during the transport of solvents to a dry cleaning facility.
- To pay a fine or penalty assessed under state or federal law.
- To pay any costs related to a dry cleaning facility that has been included on the *Comprehensive Environmental Response, Compensation and Liability Acts, National Priorities List*.
- Corrective action at sites with active dry cleaning facilities where the owner or operator is not in compliance with sections 260.900 to 260.960, 10 CSR 25-17.010 through 10 CSR 25-17.170. or any other applicable federal or state environmental statute, rules, or regulations.
- Corrective action at abandoned dry cleaning facilities taken out of operation prior to July 1, 2009 that are not documented by or reported to the department by July 1, 2009.
- Assessment, investigation, and remediation costs incurred prior to Aug. 28, 2000.
- Costs necessary to remove an underground or aboveground storage tank system.
- Costs of demolition and removal of building, equipment, etc.
- Costs of disposal of soil, groundwater, etc., that is not contaminated with contaminants associated with chlorinated dry cleaning solvents at levels such that the Department of Natural Resources requires corrective action
- Markup of costs charged by a treatment facility which is used for the treatment or disposal of contaminated soil, groundwater, etc.
- Markup of costs charged by laboratory for analysis of soil, groundwater, surface water, samples, etc.
- Markup of costs by the environmental consultant or contractor of major subcontracted work done as part of the assessment, investigation, or remedial work, such as drilling, well installation or push-probe investigations.
- Installation of new or repair and maintenance of existing dry cleaning equipment.
- Preparation of claim submittals.
- Paving or resurfacing, except as required as a result of necessary cleanup activities. Costs for resurfacing shall be paid on the basis of the actual cash value of the surface that existed immediately prior to cleanup activities.
- Other costs not relevant to the assessment, investigation or remediation of contamination caused by chlorinated dry cleaner solvents, as determined by the department.

It is your responsibility to make sure that all work plans and associated costs are pre-approved by the Department of Natural Resources before the work is done, except in emergency situations. All cleanup costs must be necessary to achieve cleanup of the property as required by the Department of Natural Resources. All costs incurred to clean up a property beyond that required by the Department of Natural Resources will not be reimbursed.

How to file a claim

Fill out the DERT Fund Application and submit the required forms to the DERT Fund at this address:

Drycleaning Environmental Response Trust (DERT) Fund
Missouri Department of Natural Resources
Hazardous Waste Program
Brownfields/VCP Section
P.O. Box 176
Jefferson City, MO 65102-0176

The flowcharts found at the end of this fact sheet show the process for filing a claim for a non-emergency situation and an emergency situation.

DERT Fund participants are required to seek pre-approval of site assessment, investigation or remedial activities by following these procedures:

1. Obtain bids or proposals from qualified contractors or consultants to demonstrate that a fair and reasonable price will be paid. An example of a proposal is included in this claim kit.
2. Your bid(s) or proposal(s) should be submitted to the DERT Fund using the following categories. The DERT Fund will track costs by these categories:

Environmental Consulting Services - Includes costs for project management, supervision, data analysis, report preparation, remedial system design and other activities as appropriate.

Disposal/Treatment - Includes costs for disposal and/or treatment of contaminated media.

Equipment Rental/Lease/Purchase - Includes costs for any field equipment and remedial systems rented, leased or purchased to conduct remedial activities (PID, status water level indicator, sampling devices, etc.)

Excavation - Includes costs for excavating of contaminated media.

Ground Water Monitoring - Includes costs for ground water monitoring.

Hauling - Includes costs for the removal of contaminated media.

Laboratory Analysis - Includes costs for collection and analysis of samples of contaminated media, which includes but is not limited to soil, water and air.

Soil Boring/Well Installation - Includes costs for soil boring and monitoring well drilling and installation, well elevation survey, etc.

Remediation Activities - Includes costs for remediation activities of contaminated media, which includes but is not limited to soil, water and air.

Operation and Maintenance - Includes costs for remedial system operation and maintenance.

Site Restoration - Includes costs for backfill and any other work related to site restoration.

Other Costs - Includes costs for permits, and costs for any other work not described above.

The department will respond in writing within 60 days after the work plan and cost estimate is received by the department. The response will include a statement of whether the cost estimate(s) are eligible, reasonable and necessary. If the cost estimate is incomplete or contains costs which are higher than the department deems reasonable, the department may ask the participant to solicit additional cost estimates, justify the cost estimate in writing or agree to pay a lesser cost deemed reasonable by the department.

The department reserves the right to reject a proposed cost estimate, in writing, that the department deems ineligible, unreasonable and unnecessary.

Upon receipt of the approved work plan and cost estimate, the approved work may continue. The DERT Fund staff may be on site to observe the fieldwork. Please contact the DERT Fund Unit project manager three to five days prior to the work being initiated.

If conditions in the field provide evidence that an expansion of work beyond the original scope of work is warranted to investigate or remediate the contamination, the DERT Fund Unit project manager should be contacted to obtain approval for additional spending prior to the expansion.

All work plans and associated costs must be pre-approved by the Missouri Department of Natural Resource before the work is initiated. All cleanup costs must be deemed necessary by the Department to achieve cleanup of the property as required by the Department. All costs incurred to clean up a property beyond that required by the Department will not be reimbursed.

Prioritization of DERT Fund Sites

Reimbursement of the DERT Fund monies will be accomplished based on the site prioritization method described in 10 CSR 25.17.060. Before reimbursement of DERT Fund monies, your consultant will need to complete and submit the DERT Fund Prioritization Ranking Form. This form will be used to determine your site's prioritization ranking score.

DERT Fund monies will be allocated to prioritized sites in the following proportions:

- High priority sites - 60 percent
- Medium priority sites - 30 percent
- Low priority sites - 10 percent

In any fiscal year, if the funding allocation in any priority category are not used, those funds may be reallocated to other priority categories, starting with any high priority sites and followed by medium and then low priority sites.

Phase I Environmental Site Assessment (ESA) shall be designed and implemented in accordance with the procedures for such assessments set forth in *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process* (ASTM E 1527-05). The Phase I ESA shall determine the recognized environmental conditions or chemical contaminants of concern, including dry cleaning solvents, that may be associated with the site.

Sites that are low priority and are not allocated with monies for a fiscal year, but wish to proceed with cleanup, must have cleanup work plans and cost estimates pre-approved by the department. Funding may be available for these pre-approved costs at a later date.

Claim Reimbursements

Before any reimbursements can be made to the DERT Fund participant, the participant must be listed in the vendor table in the State of Missouri financial system. To be set up on this vendor table, the participant must complete the *Vendor Input* form (MO 300-1489). The *Vendor Input* form and form instructions are available on the Office of Administration/Accounting Web site at www.oa.mo.gov/acct, or you may contact the DERT Fund Unit at (573) 526-8913 to request a copy to be mailed or faxed to you. Please read Section A instructions carefully so that the form is completed accurately to avoid delays in processing. The completed *Vendor Input* form must be returned to the DERT Fund Unit for entry into the financial system at fax number (573) 526-8922, or mailed to

Hazardous Waste Program
DERT Fund Unit
P.O. Box 176
Jefferson City, MO 65102-0176.

Participants requesting payment from the DERT Fund shall complete and submit the *Reimbursement Claim Worksheet* forms for the work done along with any reports generated for the work to the DERT Fund address. Invoices and cancelled checks must also be submitted for all costs listed on the *Reimbursement Claim Worksheet*. Invoices must be submitted within six months of the date that the proposed work is completed. Failure to submit invoices within the time frame may result in a denial of payments.

Original invoices are requested. Photocopies may be submitted with a signed statement that the copies are accurate and true. Invoices should be accumulated and submitted as a whole when each phase of a project is completed. The DERT Fund will make periodic payments during the completion of phases of work for projects that may present a financial hardship.

Eligible costs will be reduced by the applicable deductible amount of \$25,000. Costs in excess of \$1 million at a site will not be reimbursed by the DERT Fund.

The department will respond in writing to every request for reimbursement. If the response indicates that some or all of the costs are being denied, then the response will state the reasons for the denial of costs.

Invoices will be paid after a review of the report for the work that was accomplished. This review might take up to 90 calendar days. An additional two to three weeks delay in the issuance of payments might occur.

Appeal Procedures

If a DERT Fund participant disagrees with a reimbursement decision, he or she shall send or deliver the objection or reason for the disagreement in writing to the department within 90 days of the date the claim denial is issued. The department will then review the claim considering the objections or reasons, and respond in writing to the DERT Fund participant within thirty days of receipt. The response will indicate one of the following:

- Affirm the decision previously made
- Modify the decision previously made
- Refer the claim to the Hazardous Waste Management Commission (HWMC); or
- Request additional information or clarification from the owner or operator making the appeal. Within 30 days of receipt of the additional information or clarifications, the department shall take one of the three steps listed above. If no response is received, the department may terminate the dispute resolution process, which leaves in place the original decision.

If the DERT Fund participant still disagrees with department's decision, he or she may request further review by sending a written request within 60 days of receipt of the department's decision to the HWMC, in accordance with 10 CSR 25-1.010. The HWMC will then consider the disputed claim at one of its two next regularly scheduled meetings.

Send the request to

Hazardous Waste Management Commission
Missouri Department of Natural Resources
c/o Program Director
Hazardous Waste Program
P.O. Box 176
Jefferson City, MO 65102-0176
(573) 751-3176 phone
(573) 526-8922 FAX

Related publications

The following publications are available on the Web at www.dnr.mo.gov/pubs/pubs.htm.

Drycleaning Environmental Response Trust (DERT) Fund Frequently Asked Questions (PUB2186)

Transactions of Properties with Active or Abandoned Dry Cleaning Facilities (PUB2134)

Drycleaning Environmental Response Trust (DERT) Fund Claim Kit (PUB2135)

Drycleaning Environmental Response Trust (DERT) Fund - Frequently Asked Questions about Remediation (PUB2136)

Drycleaning Environmental Response Trust (DERT) Fund - Frequently Asked Questions about Registration (PUB2137)

For more information call or write:

Missouri Department of Natural Resources
Hazardous Waste Program
Drycleaning Environmental Response Trust Fund
Brownfields/Voluntary Cleanup Section
P.O. Box 176
Jefferson City, MO 65102-0176
(573) 526-8913
(573) 526-8922 FAX
www.dnr.mo.gov/env/hwp/dert/hwpvc-p-dryclean.htm

Example of Bid/Proposal

Environmental Consulting Services

Project manager	\$ _____
Registered Geologist	\$ _____
Technician	\$ _____
Site investigation report preparation	\$ _____

Soil Boring/Monitoring well installation

Number/depth of soil borings	\$ _____
Number/depth of monitoring wells	\$ _____
Drilling costs (soil borings)	\$ _____
Drilling costs (monitoring wells)	\$ _____
Well elevation survey	\$ _____

Equipment Rental/Lease/Purchase

Field equipment (PID, static water level indicator, sampling devices, etc.)	\$ _____
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Disposal/Treatment

Purge water disposal	\$ _____
Drill cutting disposal	\$ _____

Laboratory Analysis

Laboratory costs (unit and total costs)	\$ _____
Slug test	\$ _____

Other Costs

Permits, etc.	\$ _____
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Excavation

\$ _____

Ground Water Monitoring

\$ _____

Remediation Activities

\$ _____

Operation and Maintenance

\$ _____

Hauling

\$ _____

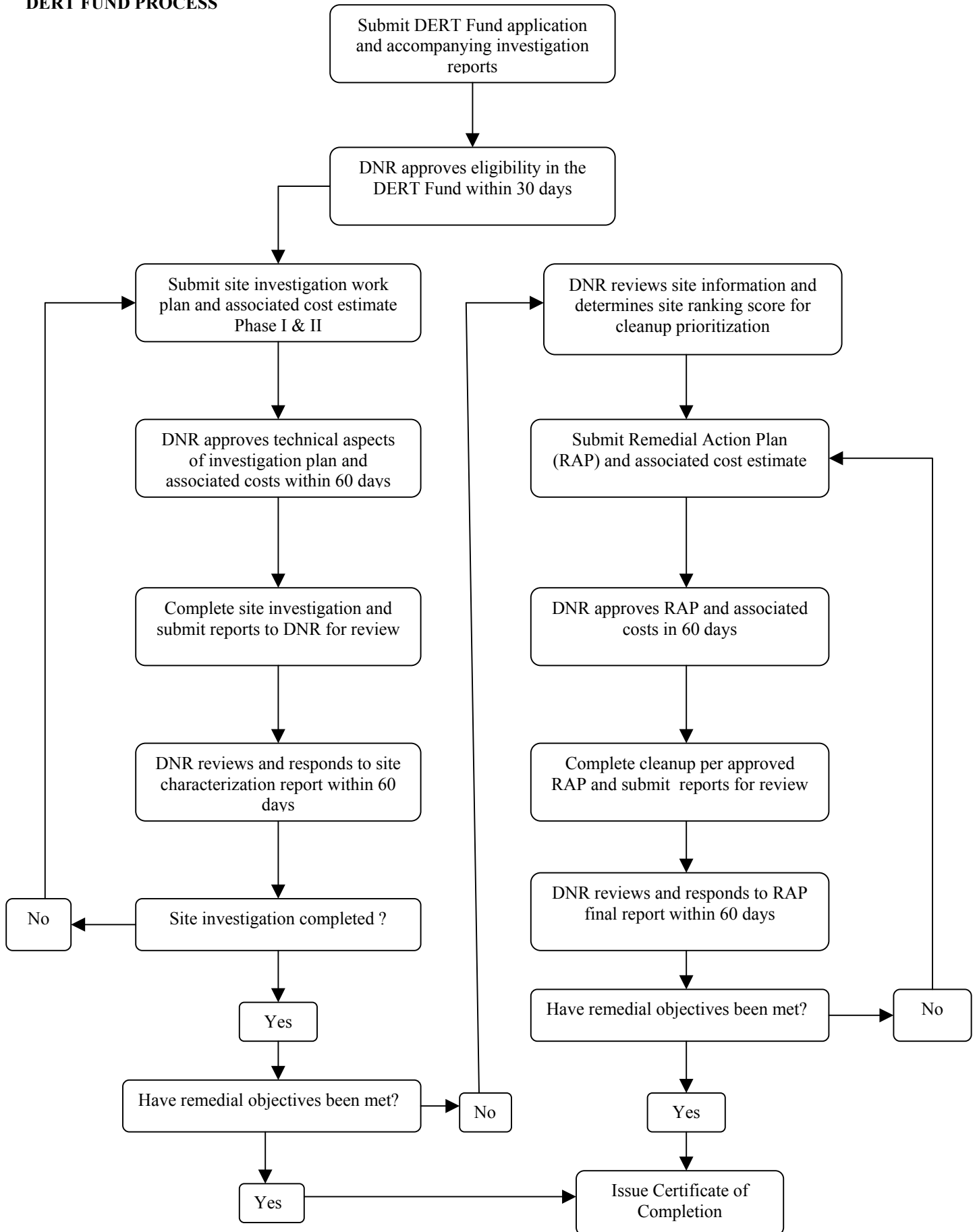
Site Restoration

\$ _____

Total Costs

\$ _____

DERT FUND PROCESS



DERT Fund Emergency Abatement Process

